

California Debt and Investment Advisory Commission

Municipal Market Disclosure Seminar
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Fiscal Reform and Disclosure in the Municipal Markets

With

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Fiscal Reform and Issuers

By Thomas G. Johnsen

Changing Regulatory Regime

- **Changing behavior by regulating non-municipal participants**
- **Dodd-Frank Wall Street Reform and Consumer Protection Act**
- **SEC**
- **MSRB**
- **FINRA**
- **CFTC**
- **Other SEC**

Municipal Advisors

- **Requirements**
 - Registration by 10/1/2010 and 12/31/2010
 - Rules for professional standards
 - Certification / Testing
 - Continuing Education
- **Activities / Definition**
 - Advice to municipal entity or obligated person
 - Regarding municipal finance products or issuance of securities
 - Advice on structure, timing, terms and similar matters
 - Solicitation / 3rd Party Marketing

Municipal Advisors - *continued*

- **Fiduciary Duty**
 - **Duty of Loyalty**
 - Disclosure obligations
 - Informed consent
 - Unmanageable conflicts
 - Compensation
 - **Duty of Care**
 - Necessary qualifications
 - Consider alternatives
 - Duty of inquiry
 - Not a Guarantor
 - Limitations on Scope

Rating Agencies

- Increased accountability
- Internal controls to avoid conflicts and ensure rating accuracy
 - Separation of ratings staff from sales and marketing
 - Employment transitions
- Corporate Governance

Broker-Dealers (Underwriters)

- **Role switching from financial advisor to underwriter prohibited**
- **If giving advice presumed to be financial advisor but may be “rebutted”**
- **No fiduciary duty to Issuer**
- **Fair dealing with Issuer and Investor**

Changes to Expect

- **Increased formality in process and relationships**
 - **Issuer**
 - **Team**
- **More definition of roles**
- **Increase in disclosure**
- **Increase in documentation**
- **Disadvantage to smaller issuers**
- **More Private Placements**

What Else to Know

- **Direction is: One size to fit all**
- **Municipal Advisor contract to change**
- **RFP questions to change**
- **Bond Purchase Agreement changes**
- **What ARE loyalties and conflicts**
- **Expect transition**